

## Rodriguez Robles, Edward C MVS

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**From:** Mitchell, Anthony P COL MVS  
**Sent:** Tuesday, December 15, 2015 4:16 PM  
**To:** Hunn, Matthew J MVS  
**Cc:** Rodriguez Robles, Edward C MVS; Rose, Nathan S MVS; McClendon, Danny D MVS; Fenske, Dennis S MVS; Henke, Amy C MVS; George, Timothy K MVS; Asbed, Jeffrey E MVS; Ziino, Julie MVS  
**Subject:** RE: DAPL 408 Questions (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Matt,

Thanks for the additional insight and clarification, very helpful. Appreciate the efforts by the team. In dealing with this applicant and others, suggest we be more responsive and forthright in our communications and permitting actions going forward.

Lastly, keep me apprise on progress and/or significant changes.

Thanks,

COL Anthony P. Mitchell  
Commander, St. Louis Engineer District  
U.S. Army Corps of Engineers  
☎ Office: (314) 331-8010  
☎ Mobile: (314) 449-4758

-----Original Message-----

From: Hunn, Matthew J MVS  
Sent: Tuesday, December 15, 2015 8:19 AM  
To: Mitchell, Anthony P COL MVS <Anthony.P.Mitchell@usace.army.mil>  
Cc: Rodriguez Robles, Edward C MVS <Edward.C.RodriguezRobles@usace.army.mil>; Rose, Nathan S MVS <Nathan.S.Rose@usace.army.mil>; McClendon, Danny D MVS <Danny.D.Mcclendon@usace.army.mil>; Fenske, Dennis S MVS <Dennis.S.Fenske@usace.army.mil>; Henke, Amy C MVS <Amy.C.Henke@usace.army.mil>; George, Timothy K MVS <Timothy.K.George@usace.army.mil>; Asbed, Jeffrey E MVS <Jeffrey.E.Asbed@usace.army.mil>; Ziino, Julie MVS <Julie.Ziino@usace.army.mil>  
Subject: DAPL 408 Questions (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

Sir -

Referencing your email and to clarify:

1. BLUF - Applicant submitted additional information for the directional drills and a "draft" EA last week. We are still reviewing the technical submittals - responses will be done as soon as possible but no later than 30 days. The 408/section 10/404 approvals will be complete no sooner than 120 days.

2. Communication & Coordination. We sent a letter on 7 Dec to the applicant to identify the current status of the permit review. We are continuing regular conference calls with the applicant. Tim George has been working with the applicants on the requirements for the EA. The application was not complete missing the EA and the directional drill information/specifications and this is being worked with the applicant.

3. Categorical Exclusion. Upon review of the categorical exclusion requirements, OC and PD-C determined that the "cat-ex" only covered portions of the proposed work within the MVS AOR. It was determined that a comprehensive review of the work was the correct path to take with this permit application.

4. 404/408. Current guidance and regulation prohibits the Corps from issuing any Section 10/404 permits until required 408 permissions are granted. However, only three (3) of the pending Section 10/404 permits require Section 408 permissions in MVS AOR. Therefore, all remaining Section 10/404 permits will be able to be issued once all other outstanding requirements (Endangered Species/Tribal Coordination) revolving around the Section 10/404 permits are satisfied. Omaha District is the Lead District for the Section 10/404 actions, but each District (NWO, MVR, and MVS) will issue these permits within their AOR. Currently NWO, MVR and MVS have reviewed the draft Biological Assessment (BA) prepared by the applicant for endangered species, and the BA is currently under final review at NWO to send to U.S. Fish and Wildlife Service (USFWS) when it is complete. The USFWS will then have 90 days to render their Biological Opinion. Tribal coordination is ongoing, as is coordination with the State Historic Preservation Officers (SHPOs). Therefore, if coordination with USFWS, SHPOs and Tribes can be concluded in the next 3-4 months, then the non-408 Section 10/404 permits can be issued shortly after that. However, if additional coordination with these agencies is required then the time line will be extended.

5. Current Time Line. The timeline is not all up to our efforts and will in large part be up to the applicant.

- We will have a technical review complete within the next 30 days, assuming the latest application has the missing and correct information on the directional drills.
- Within two weeks we will be putting out a public notice on review of the 408, requires 30 days.
- Concurrent with the public notice, the EA will be reviewed. If it requires no additional work, it may be adopted within 30 days.
- Upon the approval of the technical review, end of 30 day public notice, and adoption of the EA, an additional 30 days will be required to complete a summary of findings and prepare the permit approval for your signature.
- Section 10/404 permits as noted above could be issued in 120 days dependent on feedback from the other agencies once the BA is submitted (estimated to send out in Jan).

We are looking at the 408 approval requiring a minimum of 120 days for completion of our review and approval at the District level. The 408 can be approved prior to the section 10/404 but the section 10/404 cannot be sent out prior to the 408 approval.

If you have any further questions, please let me know.

V/R

Matt  
Matthew Hunn, P.E.  
Chief, Emergency Management  
St. Louis District  
Army Corps of Engineers  
1222 Spruce Street  
St. Louis, Missouri 63103

314-331-8569  
314-346-9563 BB  
314-331-8615 Fax

-----Original Message-----

From: Mitchell, Anthony P COL MVS

Sent: Friday, December 04, 2015 3:41 PM

To: Peukert, John MVS <John.Peukert@usace.army.mil>; Ziino, Julie MVS <Julie.Ziino@usace.army.mil>; DellOrco, Lou MVS <Lou.DellOrco@usace.army.mil>; Fenske, Dennis S MVS <Dennis.S.Fenske@usace.army.mil>; Hunn, Matthew J MVS <Matthew.J.Hunn@usace.army.mil>; Rodriguez Robles, Edward C MVS <Edward.C.RodriguezRobles@usace.army.mil>

Subject: Re: Dakota Access Pipeline (DAPL) Section 408 Fact Sheet

Team,

Briefly spoke with Retired BG Crear today re: DAPL. Bottom line concerns are the rescission of the category exclusion agreed upon in prior communications, and the assumed timeline of approx. 8-12 mos to get Sec 408 approval. **Clear need for us to exercise some C2 on this matter.**

A couple questions:

Would like to better understand what prompted the change on the category exclusion? How did we communicate?

Appears there is some misunderstanding regards to 404 and/or 408. **How are we working with th customer to enable timely permit approval?** What is our timeline regarding our procedural actions? Have we communicated?

Would like some clarity to ensure we are delivering as a professional organization.

Thanks

COL Anthony Mitchell  
St. Louis District, USACE  
District Commander

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

Original Message

From: Rodriguez Robles, Edward C MVS

Sent: Monday, November 30, 2015 14:00

To: Mitchell, Anthony P COL MVS; Reese, Morgan B MVS; Peukert, John MVS; Ziino, Julie MVS

Cc: Hunn, Matthew J MVS; Fenske, Dennis S MVS; DellOrco, Lou MVS

Subject: Dakota Access Pipeline (DAPL) Section 408 Fact Sheet

Sir,

Please see attached document regarding our status with the Dakota Access Pipeline (DAPL) Section 408 Permit Review.

If you have any questions or concerns, don't hesitate to contact myself @ 8568 or Matthew Hunn @ 314-346-9563

Thanks,

Ed

Ed Rodriguez Robles  
ICW Program Manager | Section 408 Coordinator  
US Army Corps of Engineers  
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